

## Message Text

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17

ACTION ARA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 IO-13

ORM-02 DHA-02 /074 W

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R 072200Z SEP 76

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 1258

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E.O. 11652: N/A

TAGS: PGOV PINT CI PFOR

SUBJECT: EXPULSION OF DEMOCRATIC LAWYERS

REF: A) SANTIAGO 8140 B) SANTIAGO 8359

1. WITH THE END OF LEGAL PROCEEDINGS FOLLOWING THE GOC'S EXPULSION A MONTH AGO OF LAWYERS EUGENIO VELASCO AND JAIME CASTILLO (REF B), THEIR CASE AND THE CONCURRENT DIFFICULTIES BETWEEN THE GOC AND CATHOLIC CHURCH (REF A) ARE DISAPPEARING FROM PUBLIC VIEW. THE LAWYERS REPRESENTING VELASCO AND CASTILLO LAST WEEK ASKED THE SUPREME COURT TO RECONSIDER ITS AUGUST 25 REJECTION OF THEIR BRIEF. THE COURT DENIED THEIR REQUEST ON SEPTEMBER 2.

2. THE VELASCO-CASTILLO DECISIONS, HOWEVER, MAY RESULT IN A JUDICIAL LIMITATION OF THE GOC'S HITHERTO TOTALLY DISCRETIONARY USE OF ITS EXPULSION AUTHORITY, PERHAPS WITH IMPLICATIONS FOR OTHER GOC ACTIONS UNDER THE STATE OF SIEGE: DECREE LAW 81 REQUIRES THAT THE GROUND FOR EXPULSION BE SUBSTANTIATED IN THE ACTUAL EXPULSION DECREE. THE GOC'S STATED RATIONALE FOR THE LAWYERS' EXPULSION WAS SIMPLY THAT THEY WERE A DANGER TO NATIONAL SECURITY. DEFENSE LAWYERS ARGUED THAT THIS WAS NOT ENOUGH, AND THAT THE COURTS SHOULD REVIEW THE SPECIFIC REASONS FOR THE EXPULSIONS. THE APPEALS COURT

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TURNED THAT ARGUMENT DOWN, BUT THE SUPREME COURT IN ITS

AUGUST 25 DECISION (REF B) AFFIRMED ITS RIGHT TO CONSIDER  
THE REASONING BEHIND THE EXPULSIONS.

3. IN THIS CASE, THE COURT SAID IT HAD SO CONSIDERED THE  
GOVERNMENT'S REASONING. CONCEIVABLY IN FUTURE CASES A  
COURT COULD RULE THAT THE GOVERNMENT HAD NOT HAD GOOD  
REASON TO EXPEL SOMEONE--OR TO TAKE SOME OTHER PURELY  
EXECUTIVE ACTION AGAINST A PERSON--AND COULD THEREUPON NULLIFY THE  
GOVERNMENT ACTION.

4. THE IMPORTANCE OF THIS POINT WAS INDICATED TO US BY  
CHRISTIAN DEMOCRATIC AND CONSERVATIVE SOURCES, AND  
"EL MERCURIO" ON AUGUST 28 GAVE IT A SOLID EXPOSITION.  
SUPREME COURT PRESIDENT EYZAGUIRRE ALSO STRESSED ITS  
SIGNIFICANCE IN A RECENT CONVERSATION WITH THE AMBASSADOR.  
POPPER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** EXPULSION, COURT DECISIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 07 SEP 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** CunninFX  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976SANTIA08718  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760338-0949  
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**Office:** ACTION ARA  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** 76 SANTIAGO 8140, 76 SANTIAGO 8359  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** CunninFX  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 15 JUL 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <15 JUL 2004 by ShawDG>; APPROVED <27 OCT 2004 by CunninFX>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** EXPULSION OF DEMOCRATIC LAWYERS  
**TAGS:** PGOV, PINT, PFOR, CI, (VELASCO, EUGENIO), (CASTILLO, JAIME)  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006